IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WP(C).No. 19528 of 2007(Y)

PETITIONER:

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1. RETNAKUMAR, SUKUMARA VILASOM, VALLIKODE MURI, VALLIKODE VILLAGE, KOZHENCHERY TALUK, PATHANAMTHITTA DISTRICT.

2. SREEKUMAR, SUKUMARA VILASOM, VALLIKODE MURI, VALLIKODE VILLAGE, KOZHENCHERY TALUK, PATHANAMTHITTA DISTRICT.

BY ADV. SRI.D.KISHORE

RESPONDENTS:

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1. THE DISTRICT COLLECTOR, PATHANAMTHITTA.

2. THE ASSISTANT EXECUTIVE ENGINEER, PWD(ROADS) SUB DIVISION, ADOOR.

3. KODUMON GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY, KODUMON, PATHANAMTHITTA DISTRICT.

4. THE TAHSILDAR, ADOOR.

BY GOVERNMENT PLEADER SRI. S.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J

W.P.(C).No. 19528/2007

Dated this 26th day of June, 2007

JUDGMENT

Heard the learned counsel for the petitioners as also the learned Government Pleader.

2. The petitioners challenge Ext.P7 notice issued under the Kerala Land Conservancy Rules directing the petitioners to vacate the properties mentioned therein within 72 hours. The contention of the petitioners is that Ext.P7 has not been preceded by any notice or hearing and the same is issued in violation of the principles of natural justice as well as the Kerala Land Conservancy Act and Rules. The learned Government Pleader submits that Ext.P7 has been issued by the Assistant Executive Engineer and further proceedings is to be taken by the fourth respondent.

3. The petitioners have already filed Ext.P8 objections. The learned Government Pleader could not satisfy that Ext.P7 was preceded by any notice or hearing. Ext.P7 also does not contain any reasons as to why the

Emergency provisions under the Land Conservancy Act should be invoked. In the above circumstances, I am satisfied that Ext.P7 has been issued in violation of the principles of natural justice as well as the provisions of the Kerala Land Conservancy Act. However, in view of the orders I propose to pass, it is not necessary to quash Ext.P7 as such. In the facts and circumstances of the case, the writ petition is disposed of with the following directions:-

4. The second respondent shall forward Ext.P7 and P8 to the fourth respondent who shall consider Ext.P7 as a show cause notice and Ext.P8 as a reply to the same. Thereafter, the fourth respondent shall consider Ext.P8 objections in the light of the evidence to be adduced by the petitioners for which the petitioners shall be given an opportunity. The fourth respondent shall afford an opportunity of being heard also to the petitioners and pass a speaking order considering all the objections of the petitioners as well as the evidence furnished by the petitioners. Needless to say, till the

final orders are passed, the petitioners shall not be evicted from the property in question.

The Writ Petition is disposed of as above.

S.SIRI JAGAN
JUDGE

mrcs